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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,156	11/17/2003	Rondal Brent Wright	02-080	4314

29891 7590 06/27/2005

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EXAMINER

PUROL, SARAH L

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,156

Applicant(s)

WRIGHT, RONDAL BRENT

Examiner

Sarah Puroi

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-6, 13 and 15 is/are rejected.
- 7) ☒ Claim(s) 7-12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

OFFICE ACTION

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1,3,5,6,13,15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Mauck et al. 5,503,394. Mauck et al. teach an outer housing assembly 11, holding rack having an upper stand 33, lower stand 14, connector tube 12, spring biasing mechanism 23, spring biased latching mechanism with latch pin 22.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2,4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mauck et al. Although Mauck et al. is shown used above ground, there is nothing to preclude part of the outer housing being buried underground. The Mauck et al. accessory would still function. Element 31 is used to secure the device to the ground. To bury the lower part of the housing as a mechanically equivalent alternative would have been obvious for one having ordinary skill in the art at the time of the invention.

Claims 7,8,9,10,11,12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 is allowable.

RESPONSE TO APPLICANT'S REMARKS

No amendments have been made to the original claims.

Applicant argues on page 2, paragraph 3 of the remarks to the first office action, that the holding rack of Mauck et al. is not similar to the holding rack of applicant's device. The examiner does not agree with this assertion particularly in light of the fact that both the device set forth by applicant and the invention of Mauck et al. are both from the same field of endeavor, namely golf racks. Furthermore, applicant argues limitations which are not present in the claims. It is not sufficient to describe the Mauck et al. invention as it may or may not be different from applicant's device. Applicant must address the limitations of the claims presented and whether or not the Mauck et al. invention can read on those limitations. On page 3 of applicant's arguments, paragraph 1, applicant asserts that the elements 14 can not be seen as a lower stand since Mauck et al. describes them in their invention as finger grips; however, there is nothing in the claims to preclude elements 14 from being seen as a stand. There is no structure in the claims to distinguish the lower stand of applicant's device from the elements 14 of Mauck et al. It can be well argued that the elements 14 can be seen to "stand" on a finger. The mere word "stand" is extremely broad and given broad weight. Applicant further argues that Mauck et al. device does not have all of the elements recited in independent claim 1. The examiner disagrees and has clearly stated above what the holding rack, upper stand, lower stand and connector tube are. What applicant has

failed to do is prove that Mauck et al. cannot satisfy the limitations of independent claim 1, let alone independent claims 13 and 15. For this reason

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Purol whose telephone number is 571-272-6834. The examiner can normally be reached on Mon. Tues. Thurs. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sarah Purol

Primary Examiner AU 3634